Ireland vol 6.

OBSERVATIONS, &c.

1779

OBSERVATIONS

On the DOCTRINE laid down

BY

Sir WILLIAM BLACKSTONE,

Respecting the extent of the Power

OF THE

BRITISH PARLIAMENT,

Particularly with relation to

IRELAND.

In a letter to Sir WILLIAM BLACKSTONE,

WITH A

Postcript addressed to Lord NORTH,

Upon the Affairs of that Country.

The SECOND EDITION.

LONDON:

Printed for J. ALMON, in Piccadilly; J. DODSLEY, Pall-Mall; and E. and C. DILLY, in the Poultry.

M,DCC,LXXIX.

ERRATA.

Page 27. *line* 1. *For* and with which, *read* with regard to which

27. 19. *For* would have ſupplied the policy, *read*, would have ſupplied the place of the policy.

30. 26. *For* the eſtabliſhment of theſe rights, *read*, the eſtabliſhment of government.

45. 13. *after*, natural right to, *add*, poſſeſs.

A LETTER, &c.

SIR,

After the time which has elapſed ſince the publication of your Commentaries on the Laws of England, and the reception they have met with, you may perhaps be ſurprized at an Addreſs to you upon the ſubject of ſome of the doctrines contained in that work. But independent of the conſideration, that it is never too late to detect error, the longer the nature and tendency of thoſe doctrines may have remained unnoticed, and the more general the reception of the work which contains them may have been, the more it is become neceſſary to point out whatever may be erroneous in poſitions, ſanctified by a name, certainly not deſtitute of authority. The doctrines I allude to are thoſe by which you endeavour to eſtabliſh the uncontrolled, abſolute, deſpotic power of Parliament.

This, Sir, is a queſtion which includes in it much more than the major part of your readers may be aware of. And as your Book, from the liberality of the ſtyle in which it is written, is perhaps the only one upon the ſubject of the law which has been generally read by thoſe who do not make the law their profeſſion, it is neceſſary to warn ſuch perſons of the danger of too haſtily adopting opinions, the conſequences of which they in all probability do not foreſee. When Country Gentlemen, for inſtance, who are ſeldom in the habit of minutely inveſtigating ſubjects of this nature, are told by Sir William Blackſtone, the only Law-author with whom they are probably at all acquainted; an author too who has been conſidered as one of the moſt conſtitutional writers of the age; whoſe authority has been quoted by writers the moſt zealous in the cauſe of liberty; when theſe Gentlemen, I ſay, are told by you, Sir William, that the power and juriſdiction of Parliament is ſo *tranſcendant* and *abſolute*, that it cannot be *confined* either for cauſes or perſons within *any bounds*; that it can in ſhort do *every thing not naturally impoſſible*; they will be apt to form very erroneous concluſions with regard to the juſtice and equity of certain meaſures purſued in this Country for ſome time back; and they muſt likewiſe be led to entertain opinions concerning the nature and prin-

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ciples of our Conſtitution, very wide of the Truth.

You, Sir William, who hold that a competent knowledge of the *Laws* of that Society in which we live, is an almoſt eſſential part of liberal, polite education, cannot but allow, that thoroughly to underſtand the nature and principles of the conſtitution itſelf, which is the ſource of a part of thoſe Laws, and a Bulwark to all, muſt be equally neceſſary to the Gentlemen of this Country. That this is a knowledge equally requiſite to thoſe who are to become the Guardians of that Conſtitution; who are to watch and avert every dangerous innovation; who are bound (as you ſo well obſerve) "by every tie of nature, honour and religion, "to tranſmit that Conſtitution, and thoſe Laws "to their poſterity, amended if poſſible, at leaſt "without any derogation." You cannot but be convinced, that however attached a free people may be to their liberties, their attachment to them will not alone be ſufficient to enable ſuch a people to preſerve them. Zeal in the beſt of cauſes is frequently blind, and often miſſes its object. To a *love* of liberty ſhould therefore be joined an accurate knowledge of the *nature* of liberty. At leaſt a free people ſhould perfectly underſtand thoſe leading and immutable principles,

upon which every form of Goverment that ha freedom for its object, ſhould be founded. Without this, they can never guard againſt thoſe minute and indirect encroachments of power, the deſign of which is generally concealed, and the effect often remote: without this, the popular branches of the legiſlature will not be able to perceive how far an artful and inſidious, but well directed policy, may render their *own power* inſtrumental in undermining *itſelf*. In ſhort without this, our attachment to liberty would often be found to have anſwered no other purpoſe than to make us regret, when it was too late, that we had not better underſtood the means of preſerving it.

That you, Sir William, then, ſhould on this moſt important of all Subjects to Engliſhmen, attempt to miſlead their Underſtandings; that you who have ſhewn yourſelf ſo excellent an expounder of our Laws, who in every other part of your work are no leſs remarkable for ſoundneſs of ſenſe, than perſpicuity of ſtyle, ſhould, in treating of the fundamental principles of the Conſtitution itſelf, ſhould there, and there only, be inconſiſtent, contradictory, and in your concluſions frequently abſurd, is I own ſomewhat extraordinary.—You have certainly proved yourſelf every way qualified to be a Judge, but very unfit to be a Legiſlator.

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Was this accident or deſign? For the ſake of your reputation I ſhould wiſh, odd as it may ſeem, that it were accidental; but how came this accident to happen to you, *only* in this part of your work: you and I Sir William know that the doctrine of the Omnipotence of Parliament is a very favorite one in the Quarter of Promotion; and it was very natural you ſhould prefer a ſeat on the Woolſack, to one in the Houſe of Commons.

For my part I have ever had ſuch inveterate prejudices in favour of Liberty, that I could never reliſh the Idea of an arbitrary deſpotic power's being lodged by our conſtitution in any perſon, perſons, or different bodies of Men whatever. I have ever entertained ſuch an unaccountable opinion of the ſacredneſs of thoſe rights which are emphatically called the *birth-rights* of Engliſhmen, that I conceived even the Parliament, omnipotent as you are pleaſed to allow it to be, could not conſtitutionally infringe any one of them. I could never be prevailed upon to think (a taſk you have undertaken) that Parliament had no rule of Action, no meaſure of conduct but diſcretion. I could not forget that there has long exiſted and ſtill does exiſt a Magna Charta; that this Magna Charta however diſtant the date of it, was even then only declara-

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tory of the Principal Grounds of fundamental laws and liberties long antecedent to itſelf, and conſequently ſtill longer antecedent to the very exiſtence of Parliaments—I could not forget this Charter was afterwards confirmed by the ſtatute of *Confirmatio cartarum*, which directs the Magna Charta to be allowed as the Common Law. That no leſs than two and thirty corroborating ſtatutes were ſubſequently paſſed, all calculated to perpetuate the Great Charter, and the liberties of the Kingdom; and paſſed too by parliaments not much acquainted with penſions, places, contracts, or Lottery Tickets. That after ſome interval another parliamentary declaration of the liberties of the people was aſſented to by Charles the firſt; and laſtly I could not forget the Bill of rights, a Declaration delivered to the Prince and Princeſs of Orange, not in fact by a Parliament, however a convention of the leading perſons of the Kingdom might have been ſo called, but by the people of England: and when afterwards enacted in Parliament, the act itſelf recognized all and ſingular the rights and liberties aſſerted and claimed in that declaration, to be the true, antient *and indubitable rights* of the people of England. I ſay, not being able to forget this Magna Charta, this Confirmatio cartarum, this bill of rights, I miſtook them for

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the meaſure of the conduct of Parliament; I miſtook them for the limits of Parliamentary power; I miſtook them for the rule, by which as you obſerve, Sir William, the Commons of England are *bound* to tranſmit that conſtitution, and the laws of this Kingdom, to their poſterity; amended, if poſſible, at leaſt, without any derogation.—I could not readily comprehend your doctrine, that notwithſtanding the Commons are ſo bound, yet that Parliament had an indubitable right to do every thing not *naturally impoſſible*. I could not conceive that Parliament had an indubitable right, whenever they thought proper, to *take from* the people, what an act of Parliament itſelf acknowledges the People to have an indubitable right to *keep*.

I have ſaid, Sir William, that in treating this ſubject, you are confuſed, inconſiſtent, and in your concluſions frequently abſurd. The evidence I ſhall produce to make good my aſſertion, I am ſure you cannot object to. It is no other than your own. I ſhall lay before you, and my readers, what you have ſaid on *both* ſides of the preſent queſtion.

Sir

Sir Willliam Blackſtone.
Page 160.

The *power* and juriſdiction of Parliament is ſo *tranſcendant* and abſolute, that it cannot be confined either for cauſes or perſons, within *any bounds*. *It can* in ſhort *do every thing* not *naturally impoſſible*, and therefore ſome have not ſcrupled to call it by a figure rather too bold, the omnipotence of Parliament.

Sir William Blackſtone.
Page 54.

Thoſe rights which *God and Nature* have eſtabliſhed, and are therefore *called natural rights*, no *human legiſlature has power* to abridge or deſtroy, unleſs the owner ſhall commit ſome act that amounts to a forfeiture.

Page 49.

Wherever the power (of making laws) reſides, all other muſt conform to and be directed by it; whatever appearance the outward form and adminiſtration of Goverment may put on, it is at any time in the *option* of the legiſlature to *alter* that form and adminiſtration

Page 50.

If ever it ſhould happen that the independance of any one of the three branches of the legiſlature ſhould be loſt, or that it ſhould become ſubſervient to the views of either of the other two, the legiſlature would be *changed* from that which was *originally* ſet

up

by a new *edict* or rule, otherwiſe the conſtitution would be at an End.

up by the *General conſent* and *fundamental* act of the Society. When (according to Mr. Locke) the people would be at liberty to conſtitute to themſelves a new legiſlative power. And

Page 211.

Whenever a queſtion ariſes between the Society at Large, and any perſons veſted with powers originally delegated by that Society, it muſt be decided by *the voice of the Society itſelf.*

Page 160.

It (the Parliament) hath ſovereign and uncontrolable authority, &c. &c.—*this* being the place where that *abſolute deſpotic power* which muſt in all governments *reſide ſomewhere* is *entruſted* by the Conſtitution of theſe Kingdoms.

Page 158.

In a free ſtate every man who is ſuppoſed to be a free agent, ought to be in ſome meaſure his *own Governor*, and therefore a *branch* at leaſt of the *legiſlative power* ſhould reſide in the *whole body of the people.*

Page 161.

The Parliament being the higheſt and greateſt court, over which none other can have juriſdiction in the Kingdom, if by any means a miſgovernment ſhould any way fall upon it, the Subjects of this Kingdom are left *without all manner of remedy.*

Page 144.

To vindicate their rights when actually violated or attacked, the ſubjects of England are intitled, in the firſt place, to the regular adminiſtration and free courſe of juſtice in the Courts of Law; next to the right of petitioning the King and Parliament for the redreſs of Grievances; and laſtly to the right of *having* and *uſing arms* for ſelf preſervation and defence, and all theſe rights and liberties it is our *birth right* to enjoy entire.

It were perhaps unneceſſary for me to comment upon any of the preceding paſſages. You have been ſo ſucceſsful in confuting *yourſelf*, that there might be an appearance of vanity in my thinking I could add any thing more pointed againſt your own poſitions, than what has been already advanced by you. In this reſpect however as I ſhould be proud

proud to tread in your foot ſteps, permit me to make a few remarks upon one or two points, to which, probably in your hurry, you forgot to furniſh ſo good an anſwer, as you have done to ſome others of greater conſequence.

When you ſay it is at any time in the option of the Legiſlature to alter the form of government, you at the ſame time aſſert that it is in the option of the Legiſlature to alter *itſelf*; for I believe even you, Sir William, can hardly deny that a form of government can not well be changed without making a proportionable alteration in the nature of the Legiſlature acting under that form of government: and your concluſion that the conſtitution would be at an end, unleſs the Legiſlature were veſted with the power of deſtroying it, is I own a ſpecies of logic to which I am not much accuſtomed. The reader will however have perceived that the Legiſlature which in Page 49 might at any time, by a new edict or rule, have altered itſelf, in Page 50 muſt on no account whatſoever be changed from that which was originally ſet up by the general conſent and fundamental act of the Society.

When alſo, Sir, you ſay that the Parliament is the place where that *abſolute deſpotic* power, which muſt in all Governments reſide ſomewhere, is *en-*

truſted by the conſtitution of theſe kingdoms, give me leave to tell you that to talk of *abſolute deſpotic* power being *entruſted* is a contradiction in Terms. Really, Sir William, you treat your readers with too little ceremony: For decency's ſake you ſhould ſuffer a few Pages to intervene whenever you are diſpoſed to differ from yourſelf: but a flat contradiction in the ſame ſentence, is certainly holding their underſtandings in too great contempt. Neither will your having afterwards contradicted another part of the ſame ſentence with a little more regard to decorum, that is at the diſtance of ſome pages, be deemed a ſufficient apology for your breach of it here.

I need not tell you, Sir William, that a Deſpotic, neceſſarily implies an unlimited power; whereas an *entruſted* power, muſt, from the very circumſtance of its being a *truſt*, be limited in its exerciſe, to the objects of that truſt.

Conſequently to ſay that a *deſpotic* power is *entruſted*, amounts pretty nearly to the ſame thing, as to aſſert that the ſame power can be at once arbitrary and limited. This, Sir, I take to be too groſs a contradiction, to find a place even among your obſervations upon the principles of the conſtitution.

You ſay that an abſolute deſpotic power muſt in all governments reſide *ſome where*; yet you admit that in a free ſtate *a branch* at leaſt of the *Legiſlative power* ſhould reſide in the *whole body of the People*; and that this power when the territories of the ſtate are ſmall, and its citizens eaſily known, ſhould be exerciſed by the people in their *aggregate or collective* capacity, as was wiſely ordained in the petty republics of Greece, and the firſt rudiments of the Roman State. Let me aſk you, Sir William, where was this abſolute deſpotic power lodged in the governments of thoſe Grecian Republics, in which Laws were made upon the propoſal of the Magiſtrate, with the knowledge, and *by the command of the People?*

It were ſurely a wretched quibble and ſtrange abuſe of terms, to ſay that a man can exerciſe abſolute deſpotic power over *himſelf*; and unleſs you avail yourſelf of this quibble, I am of opinion you will find it hard to point out the place, where in the governments above alluded to, that abſolute deſpotic power was lodged, which you ſay in all governments *muſt* reſide ſomewhere.

I ſhall now beg leave to make a few remarks upon an attempt of yours to refute a doctrine laid down

down by Mr. Locke. You ſay it muſt be owned that he and other theoretical writers have held that "there remains ſtill inherent in the people, a ſu-"preme power to alter or remove the legiſlative, "when they find the legiſlative act contrary to the "truſt repoſed in them: for when ſuch truſt is "abuſed, it is thereby forfeited, and devolves to "to thoſe who gave it."

"But that however juſt this concluſion may be in "theory, you can not adopt it, nor argue from it, "under any diſpenſation of government at preſent "actually exiſting. For this devolution of power to "the people at large, includes in it a diſſolution of "the whole form of government eſtabliſhed by that "people; reduces all the members to their original "State of equality, and by annihilating the ſovereign "power, repeals all poſitive laws before enacted."

Now, Sir, I am to conclude from what you have ſaid, that your not adopting the doctrine held by Mr. Locke proceeds from your great regard for the form of government originally eſtabliſhed by the people: for it is the diſſolution of that form of Government that you ſeem to apprehend might be the conſequence of admitting, "that there re-"mains at all times inherent in the people a ſu-

"preme

"preme power to remove or alter the legiſlative."—
But when is it that Mr. Locke allows the people to exerciſe this power, or when indeed is there any probability that this power would ever be exerciſed by them? Why, when they find the legiſlative act contrary to the truſt repoſed in them; a part of that truſt, as you with ſo much warmth and eloquence, have on an other occaſion obſerved, is to preſerve that form of government inviolate; but, if inſtead of fulfilling this part of their truſt, they ſhould attempt from perſonal views to ſubvert the conſtitution, and ſhould ſucceed in their attempt; would not this likewiſe be a diſſolution of the whole form of government eſtabliſhed by the people?—And, why did not your regard for its ſafety, make you perceive that this might poſſibly be the conſequence of your not adopting the poſition laid down by Mr. Locke? *You might have recollected*, Sir William, *that there was once a Parliament which gave to Royal ploclamations the force af Law.*

The Caſe then as you have ſtated it ſtands thus.—You *admit* that the form of government is originally ſet up by the general conſent and fundamental act of the people;—but this form of government being once eſtabliſhed you *deny* that there

there can afterwards remain any ſhare of power inherent in the people for the purpoſe of preſerving it; becauſe, ſay you, the exerciſe of ſuch a power would *ipſo facto* include in it a diſſolution of the form of government: And in order to prevent ſuch a diſſolution from taking place, thoſe who are intruſted with the care of preſerving it, are to be *abſolute*, *uncontroled* nay *omnipotent*. It is to be at any time in their option by a new *edict* or *rule to alter* it in what manner they think proper; whilſt non reſiſtance, and paſſive obedience, are to be the rule of conduct of the people, by *whoſe fundamental act*, you yourſelf acknowledge that form of government was originally ſet up.

This, Sir, may for aught I know be very ſound logic, but I confeſs I do not thoroughly comprehend it.

In the next place, Sir, when you aſſert that the exerciſe of a power inherent in the people to preſerve a conſtitution they had themſelves eſtabliſhed, would reduce all the members to their original ſtate of equality, and by annihilating the ſovereign power, repeal all poſitive laws before enacted; I think theſe poſitions are not quite ſo ſelf evident as to have rendered all proof ſuperfluous. That the people of England *have* been

quiet

guilty of ſuch exertions, our hiſtory, I believe, will furniſh ſufficient teſtimony; but I do not remember ſuch conſequences to have followed.

The reducing of property to a level throughout a kingdom, is not a point quite ſo eaſily to be accompliſhed, as that of the removal of perſons entruſted with the powers of government; nay, I will venture to pronounce it to be an abſolutely impracticable one in a civilized ſociety; and as long as property remains unequal, all the members of the community, can never be reduced to their original ſtate of equality.

The ſovereign power you have (p. 49.) defined to be the power of making laws; and you admit that in a free ſtate, a branch at leaſt of the legiſlative power, or the power of making laws, ſhould reſide in the whole body of the people; conſequently you allow, that a branch, at leaſt, of the ſovereign power reſides in the people. I do not then conceive, how the whole ſovereign power would be annihilated, in the caſe you have ſuppoſed; for ſurely this branch of it would ſtill continue to reſide where it did before. In truth, Sir William, you appear ſtrangely perplexed in your attempts to refute a doctrine, laid down by one, whoſe name, I truſt, will ever be held in the higheſt veneration by Engliſhmen.

A doctrine, which I am bold to affirm, ſhould be the firſt article in the political creed of every freeman. Give me leave to point out to you, the reaſon of your perplexity. You have confounded, whether inadvertently or deſignedly, I ſhall not take upon me to ſay, the form of government itſelf, with the perſons acting under, and entruſted with the powers derived from that form of government. The King, Lords, and Commons, are *not* the conſtitution, they are only the *creatures* of the conſtitution. By removing, therefore, or altering the legiſlative power, when they, to whom that power is intruſted, act contrary to the truſt repoſed in them, I do not conceive, that Mr. Locke meant any thing more than changing the hands, in which the right of exerciſing the powers of government, had been placed. When, therefore, you ſay, Sir, however juſt this doctrine of Mr. Locke's may be in theory, you cannot adopt it, or argue from it, you ſeem to forget your own poſition, "That "whenever a queſtion ariſes between the ſociety "at large, and any magiſtrates, veſted with po-"wers, originally delegated by that ſociety, it "muſt be decided by the *voice of the ſociety itſelf.*" And certainly, one would imagine ſome ſtriking events in the hiſtory of this kingdom, had then eſcaped your recollection, particularly the Revolution, which placed William the Third upon the throne. This, Sir, was a caſe, which bore a very ſtrong

ſtrong reſemblance to a devolution of power to the people at large: yet it was not followed by a diſſolution of the whole form of government, eſtabliſhed by that people; nor by all the members being reduced to their original ſtate of equality; nor by an annihilation of the ſovereign power. Need I remind you, Sir, by what it was followed? The more clearly aſcertaining, and firmly eſtabliſhing, the rights of the people of England.

Were you really ſerious then, Sir William, in aſſerting, that ſuch a caſe muſt at once deſtroy all law, and compel men to build afreſh upon a new foundation? Does the very exiſtence of the laws, liberties, and rights of Engliſhmen, reſt upon the *perſons* of thoſe, who derive all their authority from a form of government, eſtabliſhed for the purpoſe of preſerving thoſe laws, liberties, and rights? Does the diſſolution of the *beings created*, annihilate *the powers* creating? Or is that legiſlature originally ſet up by the *general conſent and fundamental act of the ſociety*, neceſſarily deſtroyed, whenever the *perſons* acting under that legiſlature, and entruſted with the care of its preſervation, ſhall be removed for a breach of their truſt?

It is admitted, I believe, that a very clear diſtinction is made between the *perſon* of the *King*, and the *Crown* of *Great-Britain*. And that ſociety,

whoſe fundamental act originally ſet up the legiſlature, may make a diſtinction equally clear, between the *perſons* of the legiſlators, and the *Britiſh Conſtitution*. That conſtitution, Sir, muſt laſt as long as it is the general opinion of the people, that it ſhould laſt, provided they poſſeſs ſenſe to guard againſt encroachments, and ſpirit to repel them. It may happen, that encroachments on the conſtitution, can only be repelled by the people's reſuming the powers they had delegated, by taking under their own protection a form of government, they had themſelves eſtabliſhed, till they ſhall have appointed more faithful guardians to it, than thoſe who ſhall compel them to have recourſe to this expedient. But precarious, indeed, will be the tenure, by which they muſt hold that form of government, if, with your friendly aſſiſtance, Sir William, the people are led to confound the truſtees of the conſtitution, with the conſtitution itſelf: if they are taught to think, that thoſe truſtees are omnipotent; that they poſſeſs of right a power to do every thing, not naturally impoſſible; and that conſequently, however, they may miſgovern, the ſubjects of this kingdom are left without all manner of remedy. This muſt certainly be allowed, if the doctrine, you labour to eſtabliſh, be adopted. According to that doctrine too, the truth of Monteſquieu's aſſertion (which you have quoted on the occaſion)

" that

" that the conſtitution of England will periſh, " whenever the legiſlative power ſhall become " more corrupt than the executive," would be indubitable. There are perſons, Sir William, who conceive that contingency to have taken place; but, I truſt, the conſequence has not yet followed. On the other hand, if the omnipotence of parliament be denied; if the people are perſuaded, there muſt ever remain, inherent in them, a power to aſſert " thoſe rights derived from God and Na- " ture," whenever they ſhall be invaded, whether by the *whole* legiſlature, or any branches of it, it is not *then* that the corruption of the perſons entruſted with the exerciſe of the legiſlative power, would finally deſtroy the liberties of England. No, Sir, then only could it happen, that the Britiſh Conſtitution would be in danger, when the whole body of the people themſelves ſhall have become equally corrupt, with their truſtees. When among them venality ſhall have poiſoned the ſpring of public virtue; when all apprehenſions, from a ſtanding military force, ſhall have been loſt, in habits of acquieſcence and ſervility; when all zeal for the public welfare ſhall be exploded, and the very name of patriot, converted into a term of ridicule; when the ſpirit of domination ſhall begin to prevail among them; when the doctrine, that *all* men in their public capacities, are equally ſelfiſh, venal, and corrupt, all influenced alike,

alike, by the ſame views of ſordid intereſt; when theſe doctrines ſhall have been inſidiouſly propagated by the enemies, and fooliſhly admitted by the friends of the conſtitution; when, in ſhort, liberty ſhall have become almoſt unpopular to Engliſhmen; it then only, I ſay, can happen, that the Britiſh conſtitution will periſh.

But even, ſuppoſing that no future period ſhould ever exhibit ſo melancholy a picture of the depravity of the people. On the contrary, admitting that they ſhould continue to be poſſeſſed of integrity, public virtue, and love of liberty: theſe qualities would avail them little towards preſerving their conſtitution, if they are taught to believe in the omnipotence of Parliament, unleſs Parliament ſhall likewiſe be poſſeſſed of the ſame virtues in the ſame degree; unleſs the character of the *legiſlature* ſhall correſpond with that of the *nation*. In Sweden, Sir, integrity, temperance, and the abſence of every vice, conſequent upon venality and corruption formed the national character of the *people:* that of the *ſtates* was the reverſe; *theirs*, was marked by a venality equally diſgraceful and notorious. In that country, the doctrine of the *omnipotence* of the *ſtates* was aſſerted and maintained—And Sweden is enſlaved.

I hope,

I hope, Sir William, you will do me the juſtice to ſay, I have kept my word with you. I think it is tolerably apparent, that with reſpect to thoſe doctrines in your book, which I have alluded to, you have been inconſiſtent, contradictory, and in your concluſions, ſometimes abſurd. But theſe qualities, like the doctrine of the omnipotence of Parliament, cannot fail to recommend you in that quarter, where they are in daily practice. Where the parties act, as you write. Where inconſiſtencies, contradictions and abſurdities, are to the full as conſpicuous, with regard to meaſures, as they are in your book, with reſpect to doctrines.

If you have laid down irreconcileable poſitions, and that it has happened to you frequently to contradict yourſelf, it cannot injure your reputation with thoſe, who have it moſt in their power to reward your merits.

Perhaps, Sir, I have been too haſty in attributing the inconſiſtencies and contradictions, which you have ſuffered to appear in your book, to any intereſted views. Perhaps you did *not* conſider this as an oblique method of paying your court to miniſters. It is not impoſſible, but that being of a conciliating diſpoſition, your only object was to ſtand well with your readers of every deſcription. With this view, you endeavoured to accomodate

your

your doctrines to the taſte of all parties. That the advocates for power, and the friends of liberty, might have equal cauſe to be ſatisfied with ſome of your poſitions, you aſſerted the omnipotence of Parliament to flatter the one, and you talked of rights derived from God and Nature, which no human legiſlature has power to deſtroy, to pay your court to the other. You did not, for you could not forget, how widely you muſt, for this purpoſe, differ from yourſelf: but perceiving, that no inconvenience reſults from a ſimilar practice, which obtains, *where* leaſt it *ſhould* obtain, and where the frequency of it has deſtroyed the ancient connexion, which, on the like occaſion, was wont to ſubſiſt between detection and diſgrace; you boldly, and as you imagined, perhaps, ſecurely followed the exampled there ſet before you. You, however, forgot that there is but *one place*, where the text is allowed to bear no ſenſe, but what the commentator thinks proper to give it: where the affirmative and negative of a propoſition, are in their turns aſſerted with equal confidence, on the one hand, and admitted with equal complaiſance, on the other; where opinions are held to be ſuperior to arguments, and aſſertions to proofs; where truth cannot perſuade, nor even facts convince. Your abilities, Sir William, are unqueſtioned; but they, whoſe example you have ſo cloſely followed, are, beyond doubt, maſters of certain powers

of perſuaſion, to which you can have no pretenſions. It was unwiſe in you to have overlooked this circumſtance, and I truſt in the next edition of your Commentaries you will reflect that it is not within the reach of every one's talents to convince the underſtanding without proof, and ſubvert truth without argument.

In the mean time I ſhall, with deference, ſubmit to your conſideration a few obſervations, on the nature of liberty, on the true principles of the Britiſh conſtitution, and on the extent of the power of Parliament.—I ſhall endeavour to ſupply what upon theſe heads is deficient in your book; and though I am aware that this ſubject has been ſo frequently handled, that it may appear almoſt impertinent in a writer to think he can add any thing new upon it, yet as the controverſy it has occaſioned is by no means at an end, as a variety of opinions ſtill prevails concerning this very important point, a point upon which it would be ſo much for the intereſt of the conſtitution, as well as ſo conducive to the proſperity of the nation, if identity of opinion could be obtained, I ſhall venture to hope that every attempt towards procuring ſo deſireable an end may paſs at leaſt without cenſure.

I entirely agree with one of the moſt amiable characters, and able writers of the age, that civil freedom is not a thing that lies hid in the depths of abſtruſe ſcience: and that all the juſt reaſoning that can be upon it, is of ſo coarſe a texture, as perfectly to ſuit the ordinary capacities of mankind. Yet to conſider the arguments daily made uſe of in converſation, and to reflect on all that has of late been written upon this ſubject, one would be tempted to imagine there was no queſtion of more difficult inveſtigation; none in which the truth was more involved in intricacies; or in which it depended in a greater degree upon the niceties of metaphyſical diſtinctions. But ſhould the whole of this queſtion be found to reſt upon a few ſimple principles, the truth of which muſt ſtrike the ſenſe, and come home to the feelings of every man; and upon a few deductions from thoſe principles, equally ſimple and equally obvious to the plaineſt underſtanding; it were much to be lamented that upon a queſtion of ſuch a nature, a people deeply intereſted in its determination, ſhould entertain ſentiments ſo various and apparently irreconcileable. This, far from being a theoretical point or abſtruſe matter of ſpeculation, like thoſe abſtract queſtions in metaphyſics and mathematics, which are fit only to engage the

the attention of ſcholaſtic diſputants, and with which, ſo far as it can affect ſociety, it is of no manner of importance, whether the parties reaſon right or wrong;—is, on the contrary, a queſtion which may affect the deareſt intereſts of ſociety, and goes directly to the practice and conduct of a nation. To the erroneous opinions which have for ſome time obtained in this country reſpecting the nature of liberty; to the inaccurate ideas which have prevailed here, concerning the true principles of the conſtitution; and particularly with regard to the extent of the *power of Parliament*, thoſe calamities in which the kingdom is at preſent involved, may in a great meaſure be attributed.

Had not this been the caſe, I am perſuaded, however blind they might have been to their true *intereſt*, the national *juſtice* of Engliſhmen would have ſupplied the *policy* they might have wanted, and have ſtepped in between ruin to themſelves, and perſecution, unavailing perſecution to others. I do not mean to revive the American queſtion. Our miniſters have indeed, with reſpect to us, rendered that a mere matter of ſpeculation. The Americans have decided it for themſelves. But as Great Britain has ſtill remaining ſome *other* dependencies, *one* of which particularly ſuffers very

very ſev rely from the narrow illiberal ſyſtem of policy, which, with reſpect to that unfortunate country, has long marked and diſgraced the councils of this kingdom; for the ſake of thoſe dependencies alone, without in the leaſt alluding to America, I think it highly requiſite, that juſter notions concerning the nature of liberty; more accurate ideas reſpecting the principles of the conſtitution; and particularly with regard to the extent of the *power of parliament*, ſhould prevail in Great Britain, than thoſe, the artful propagation, and inconſiderate admiſſion of which, have already coſt us thirteen provinces.

I ſhall premiſe that I mean to be as conciſe as the ſubject can poſſibly allow me to be.

Readers of a certain complection, who are great œconomiſts of their reaſoning faculties, might be alarmed at the expence of thought, which the getting through any conſiderable number of pages upon a ſubject of this nature would probably lead them into; I ſhall therefore condenſe what I have to ſay upon it as much as I am able. I muſt likewiſe declare, that what I ſhall now offer upon it, is not addreſſed to the preſent miniſtry; for tho' from a certain *activity* of diſpoſition, they have a thorough contempt for that *tardy* ſpecies

ſpecies of wiſdom which is the reſult of experience; though the event of paſt meaſures, never directs them in their choice of future; yet I do not apprehend at the preſent rather dangerous criſis, they will venture with regard to the remaining dependencies of Great Britain to hold in any degree that ſort of language, which has loſt them the others. What I ſhall here offer, is not therefore, I ſay, deſigned for the uſe of the perſons at preſent in power, but for *their* uſe who ſhall have the conduct of our affairs when they are in a *proſperous* ſituation. I ſhould be happy that thoſe perſons might carry with them into office, ſuch juſt notions of liberty, ſuch accurate ideas of the principles of the conſtitution, and ſuch liberal opinions reſpecting the *true* intereſts of this kingdom, as muſt lead them to reſpect the rights, and conſult the proſperity of her remaining dependencies. And I truſt, when they come to conſider the conduct of Great Britain with regard to Ireland in particular, they will find a degree of oppreſſion in it, totally repugnant to thoſe juſt notions of liberty, to thoſe accurate ideas of the principles of a free conſtitution, and to thoſe liberal opinions reſpecting the intereſts of this kingdom, of which I hope they will be themſelves poſſeſſed, and to inculcate which is the ſole object of the following ſheets.

In

In moſt of the publications upon the ſubject of liberty, and the power of parliament, which the American queſtion gave riſe to, there appears a ſtrange confuſion of ideas in the writers, owing to a miſapplication of terms, of which the major part of them may with great juſtice be accuſed. For inſtance, no two ideas ſhould be kept more diſtinct from each other, than thoſe of *power* and *liberty*; yet by theſe writers they have been perpetually confounded. Thus the general notions, that licentiouſneſs is the extreme of liberty; that men give up a part of their natural liberty, when they enter into ſociety; and the opinion that civil liberty can only be enjoyed in its moſt perfect degree in ſtates where every member is capable of giving his ſuffrage in perſon, I apprehend will be found to be all erroneous, and to proceed from there not having been a diſtinct line drawn, between liberty and power.

The neceſſity of recurring to firſt principles, in treating of a ſubject of this nature, is obvious. I ſhall therefore in the firſt place obſerve, that the rights of mankind in ſociety are of two ſorts; *natural*, or ſuch as exiſted antecedently to the eſtabliſhment of any government; and *incidental*, or ſuch as individuals derive from the eſtabliſhment of theſe rights. And I ſhall beg leave to lay down the following poſitions.

[*a*] There

[*a*] There *are* rights derived by mankind from God and Nature.

[*b*] All the members of ſociety having an equal ſhare in thoſe rights, are naturally equal.

[*c*] The principal aim of ſociety is, to protect individuals in the enjoyment of thoſe rights, veſted in them by the immutable laws of nature.

From theſe three poſitions it follows, in the firſt place, that the power of the government eſtabliſhed by that ſociety; can never extend itſelf to the infringement of thoſe inherent rights. And in the ſecond place, from the natural equality of the members of ſociety, it likewiſe follows that *all* the power veſted in the government is delegated to them *by* the ſociety, and that conſequently, the government can be poſſeſſed of none, of which the parties delegating, were not previouſly poſſeſſed themſelves.

Now to apply this to Great Britain, I ſhall lay down theſe fundamental truths: 1ſt, That the parliament of this country cannot be poſſeſſed of a power to deprive the inhabitants of it, or any individual in it, of the ſmalleſt of thoſe rights,

[*a*] Blackſtone's Commentaries, page 54.
[*b*] Black. Com. page 48.
[*c*] Black. Com. page 124.

derive[d]

derived from God and Nature, unleſs forfeited by ſome act of the owner.

2d, That the parliament of this country are rightfully poſſeſſed of no powers which can affect the natural rights of mankind, of which the members of the community, in their *individual* capacity, were not *themſelves*, previous to any delegation of their power, *already* poſſeſſed. Nor can the parliament of Great Britain be rightfully poſſeſſed of *any power whatſoever*, of which the members of the community, were not themſelves in their *collective* capacity antecedently poſſeſſed.

In the next place, the plain obvious method of aſcertaining what degree of power the legiſlature of a free people may in either caſe poſſeſs, is to analiſe thoſe rights which God and Nature have eſtabliſhed—and afterwards to conſider what muſt be the neceſſary conſequences of admitting, that thoſe rights are unalienable, and therefore beyond the reach of any human legiſlature.

The three primary rights derived from God and Nature, are, 1ſt, The right of perſonal ſecurity; by which not only the life of an individual ſhould be conſidered as ſacred, but his perſon ſhould be protected from every ſpecies of injury

injury that could be inflicted upon it by other individuals.

2*dly*, The right of perſonal freedom, or of regulating our own motions without any foreign controul, as long as they do not infringe upon the natural rights of others.

3*dly*, The right of enjoying unmoleſted, not only whatever is neceſſary for the preſervation of the two preceeding rights, but whatever property an individual may have acquired, provided ſuch acquiſition was made without invading the natural rights of other individuals.

The depriving a man of his life, or wounding his perſon, is a breach of the firſt of theſe rights; the confining his perſon, or compelling him to act contrary to his inclinations, is a breach of the ſecond; and the diſpoſſeſſing him of what he had acquired without any injury to others, is a breach of the third.

Theſe then are what are commonly called natural rights, or as they are ſometimes more emphatically ſtyled, the birth-rights of the people of England; and the full complete poſſeſſion of theſe, conſtitutes *liberty*.

Here it is to be obſerved, that from the rights already enumerated, there neceſſarily ariſes a fourth, or rather a fourth is implied. This is, a right in individuals, to repel by force every invaſion of the preceding rights; for it were abſurd to allow that individuals had a right to *poſſeſs*, what they had not a right to *defend*. Now I have ſeparated this latter right from the other three, becauſe it is different in its nature. It is not, properly ſpeaking, one of the conſtituent parts of liberty, any more than the garriſon which is to defend a fortreſs, is a part of the fortreſs; becauſe the full enjoyment of perſonal ſecurity, perſonal freedom, and private property, might poſſibly by ſufferance be poſſeſſed without it; but ſuch liberty would be precarious, and therefore this fourth right is eſſentially neceſſary, to give it ſtability, though not abſolutely ſo to its exiſtence. Thus a people *may* by indulgence, enjoy a very perfect degree of freedom under any form of Government; but the Government itſelf cannot be nominated a free Government, unleſs it provides againſt every attack made upon any of the natural rights of mankind, not only by *individuals* upon *individuals*, but from its own particular conſtruction, againſt any attack which might be made by the *legiſlature* itſelf, upon the rights of the community. This

laſt

laſt mentioned right, not being a conſtituent part of freedom, the exerciſe of it is *not* an *act* of *liberty*, but an act of *power*; and here I ſhall draw the diſtinction between the two. The acts of an individual may be of *two ſorts*; the firſt, where the action terminates in *himſelf*, or in ſomething which relates to *himſelf* alone, and in which his *own will* only is concerned. The ſecond, where the action terminates in *another*, or what relates to *another*, and which tends to control the *will* of *another*. The uncontrolled exerciſe of the firſt of theſe, is *liberty*; the unreſtrained exerciſe of the ſecond *would* be *power*, not liberty. When therefore writers ſay, that "Natural liberty conſiſts pro-"perly in a power of acting as one thinks fit, "without any conſtraint or controul, unleſs by "the law of nature." [*a*] It is evident they confound theſe two very different ſpecies of acts, and it is owing to their having thus confounded them, that they aſſert, that every man "when he enters "into ſociety, gives up a part of his natural li-"berty as the price of ſo valuable purchaſe." [*b*] The fact is, he gives up *no* part of his natural *liberty*; he retains all his right to the exerciſe of the *firſt* ſpecies of *acts* I have mentioned, in which

[*a*] Black. Com. p. 125.
[*b*] Black. Com. p. 125.

liberty conſiſts, and only ſuffers himſelf to be reſtrained in the exerciſe of the *ſecond* ſpecies of *acts*, to be unreſtrained, in which would conſtitute not liberty, but power. * So far then from the aſſertions of theſe writers being well founded, the truth is, that the three natural rights firſt mentioned of perſonal ſecurity, perſonal freedom, and private property, which together form the ſum of liberty, can only be ſecurely enjoyed by means of ſociety. For as individual ſtrength, could not always guard againſt individual oppreſſion, unleſs men were reſtrained from exerciſing acts of power towards each other; the conſequence would be, that the *ſtrong* would have it at their option to deprive the *weak* of all their natural rights; ſo that inſtead of there being any general *liberty* among individuals thus circumſtanced, there would only be an abuſe of power on the one hand, and oppreſſion on the other.

Here I ſhall beg leave to recapitulate as conciſely as poſſible what has been ſaid.—

* Hence licenciouſneſs cannot with propriety be called the extreme of liberty; it is on the contrary an aſſumption of power in thoſe who are guilty of it, and an encroachment upon the liberty of thoſe againſt whom it operates; and it is in fact a temporary ſpecies of arbitrary power, uſurped by the many.

The

The rights derived from God and nature, which no human legiſlature has power to abridge or deſtroy, unleſs the owner ſhall forfeit them, are,

1*ſt*, Thoſe of perſonal ſecurity.
2*dly*, Of perſonal freedom.
3*dly*, Of private property.

Out of theſe three, neceſſarily ariſes a fourth—that of defending them. To the compleat enjoyment of the *three firſt* of theſe rights, the idea of *liberty* muſt be *confined*. The exerciſe of the *fourth* right is an act of power, but then it is a naturally juſt act of power, becauſe exerciſed only in defence of natural rights. Every other act of power which tends to encroach upon ſome natural right, is conſequently naturally unjuſt. Now the object of individuals, when they ſet up a legiſlature by which they are to be governed, is, that every member of the community ſhould be equally protected in the enjoyment of the three primary natural rights; which can only be done by turning the collective ſtrength of the community againſt ſuch individuals, as ſhould invade the rights of other individuals. And from the neceſſity of giving this collective ſtrength one uniform direction and operation, ariſes the neceſſity of eſtabliſhing

bliſhing a form of Government. The eſtabliſhing of ſuch a form of Government, is an exerciſe of the *fourth natural right* I have mentioned, that of defending the three primary rights;—it is conſequently an act of power—an act exerciſed in virtue of that fourth natural right, one part of which muſt certainly be, that the people can give to the Government they ſet up, what form they think proper; and therefore the legiſlature muſt not be "altered from that which was originally "ſet up by the general conſent and fundamental "act of the ſociety." [*a*]

Having laid down theſe premiſes, having ſhewn in what the three primary rights derived from God and Nature conſiſt;—having pointed out a diſtinction I hope ſufficiently clear, between liberty and power, and ſhewn that there is but *one* ſpecies of acts of power naturally legal, the exerciſe of which forms the fourth natural right, that of defending the three primary rights, and compelling individuals to reſpect thoſe rights in each other; let us next conſider what it is a people *give up*, and what it is they *retain*, by ſubmitting to the regular adminiſtration of a Government.

[*a*] Black. Com. p. 50.

Nothing

Nothing can ſerve more clearly to aſcertain this point, than the diſtinction which in the four natural rights already ſtated, has been made, between the fourth of theſe rights, and the other three. As liberty conſiſts in the complete enjoyment of the three primary natural rights, it follows, that a people, in order to remain free, muſt never ſurrender any one of theſe into the hands of Government; for they are thoſe, "which no human "legiſlature has power to abridge or deſtroy." It is then the exerciſe of the *fourth* right only, with which Government can be entruſted:—from *that* right Government derives all its powers; and that right ariſing from nothing more than a power in individuals to defend their *own* liberty, not to attack that of *others*, the power of Government can extend no farther, than to take ſuch meaſures, to enact ſuch laws, eſtabliſh ſuch regulations, and uſe ſuch compulſory methods, as may ſeem neceſſary to protect the rights of the ſociety at large. The exerciſe of this right then, when lodged in the hands of Government, becomes the power of directing the collective ſtrength of the community in the *ſame* manner, and for the *ſame* purpoſes, as individual ſtrength might have been rightfully exerted, previous to the eſtabliſhment of Government. But the power of directing the collective

ſtrength

ſtrength of the community, was too important, too formidable in its nature, ever to be *ſurrendered* by that community, into the hands of their Governors; they only *entruſted* them with the exerciſe of it in general, becauſe individual ſtrength could not always be found adequate to the purpoſe of guarding againſt individual oppreſſion; but never ſo far diveſted themſelves of their right, to exert that individual ſtrength in defence of their *other* rights, as not to retain and exerciſe a ſhare of it, whenever their perſonal ſafety is at ſtake. But this is not all, the truſtees muſt likewiſe retain the power of reſuming the whole of the fourth right, at certain ſtated intervals; not indeed for the purpoſe of exerciſing it themſelves, for the ſame objections would ſtill continue againſt their doing this, which had originally induced them to entruſt the exerciſe of it to others; but they muſt reſume it at fixed intervals, in order to prevent the truſtees from conſidering themſelves as the proprietors of it; in order to guard againſt the abuſe of it; and to limit its uſe to the objects for which it was entruſted; and this power of reſumption, under certain regulations, may juſtly be conſidered as a part of the fourth natural right of which the community had *never* diveſted themſelves.

From this deſcription of the natural rights of mankind, of the difference between power and liberty, and of the only ſpecies of power of which individuals can be rightfully poſſeſſed, and conſequently the only ſpecies of power they can delegate, we may collect how far the power of the legiſlature of a free people, muſt neceſſarily be circumſcribed. Being in fact, nothing more than a delegated power, to exercíſe the *fourth* natural right of the people, that of defending their three primary rights; as the power of individuals goes no farther than this right admits of, neither does that of the legiſlature. And as the *entire* exercíſe of this fourth right, is never ſurrendered by individuals; ſince they always retain the exerciſe of a part of it in their own hands; [*a*] it follows that the legiſlature is poſſeſſed of no power to infringe, not only any of the three primary rights of mankind, but they alſo muſt not encroach upon that part of the fourth right, which the community have reſerved to themſelves.

[*a*] I ſhall preſently ſhew, that the ſhare a people retain of this fourth natural right in their *own hands* conſtitutes what is called their *political liberty*, as the complete enjoyment of the three primary rights forms their *civil* liberties.

Hence the truth of the two fundamental poſitions I have laid down with reſpect to the Britiſh Parliament becomes evident. Viz. 1ſt—That the Parliament of this Country is rightfully poſſeſſed of no power to deprive the inhabitants of it, or any individual in it, of the ſmalleſt of thoſe rights, the enjoyment of which conſtitutes liberty; nor to take from them that ſhare of the exerciſe of the power of defending thoſe rights which they have retained in their own hands.—I have defined that ſhare to conſiſt in the checks the Community have placed upon their truſtees, and particularly the right of reſuming at ſtated intervals the powers they had delegated.[a]

Note.

[a] This right inherent in the community of reſuming at ſtated intervals the powers they had delegated, is the bulwark of the conſtitution.—As it is a right poſſeſſed by the community at large, ſo by the community it muſt be defended; and conſequently it includes in it the *right* of reſiſtance whenever it is invaded. If I am aſked how theſe intervals are to be aſcertained, I anſwer, by the length of the period for which the community *underſtand* they are delegating their powers, at the *time* of delegation.—I know that Parliament have of their own authority thought proper to prolong that period—but their having done ſo was in the nature of things a breach of the conſtitution, and a violation of the rights of the people—It was a precedent too which I hope will never hereafter be imitated.

Hence

Hence we may judge how far the power of Parliament may be ſtyled deſpotic; how far they can alter the legiſlature by a new edict or rule; and how far, ſhould a miſgovernment fall upon them, the people are left without all manner of remedy.—2dly, The ſecond poſition laid down is, that, as all the juſt power of government is nothing more than the exerciſe of the concentered rights of individuals to defend their perſonal ſecurity, freedom, and private property; ſupported by the collective ſtrength of the community, and applied in favour of the whole community, for the ſame purpoſe that individual ſtrength might rightfully have been exerted againſt individual oppreſſion—

It follows, "that the Parliament of Great Bri-
"tain are rightfully poſſeſſed of no power which
"can affect the natural rights of mankind, of
"which the members of the community in their
"individual capacity, were not themſelves previous
"to any delegation of their power *already* juſtly
"poſſeſſed." Nor can the "Parliament of Great
"Britain be poſſeſſed of any power whatſoever,
"of which the members of the community in their
"collective capacity were not antecedently poſ-
"ſeſſed". Now as no one individual poſſeſſes of right a power to invade the natural rights of another

individual; neither can a number of individuals, or a community, however conſiderable, poſſeſs of right a power to invade the natural rights of another ſet of individuals, or other community however inferior. If one community therefore can, of right, have no power over another; neither can the government of one community, over that of another.—For as the government derives all its powers from the community which eſtabliſhed it, it cannot be poſſeſſed of more than that community had to give. Hence we may judge how far the power of the Parliament of Great Britain can extend itſelf over (what are called) the * dependencies of this kingdom.—We may judge with how much juſtice that Parliament may ſay to diſtant communities "We who derive "all our powers from the community to which we "belong, who have been entruſted with the col-"lective ſtrength of that community for the pur-"poſe of protecting their natural rights, will, "becauſe we are the ſtrongeſt, direct that ſtrength "againſt you the people of another community.— "We will aſſume powers over you, which the "community from whom we derive all our own, "do not poſſeſs themſelves. If you are allowed

* Tho' in a free Empire the confederated Nations would be a much more proper term.

"to

" to enjoy any of thoſe rights you derive from God
" and Nature, it ſhall be by our ſufferance, and
" our indulgence. But whenever we think proper
" to ſignify our pleaſure to you, you ſhall be bound
" by our ſovereign will. [a]

" You, the good people of Ireland, who form
" a different community from that to which we
" belong; who have a government of your own, and
" who are poſſeſſed of great natural advantages of
" ſituation, ſoil, and climate — you ſhall have
" a very ſcanty enjoyment of thoſe advan-
" tages which you certainly have a natural right
" to; we will deprive you of the uſe of the
" Major part of them; not that an individual
" member of our community has any power over
" an individual member of your's; not that our
" community itſelf has any juſt power over your
" community; but we, the legiſlature of our com-
" munity, who cannot be poſſeſſed of more power
" than what our community had to give us, will
" do all this becauſe it is our Sovereign will and
" pleaſure."

[a] Statute 6 Geo. 1ſt, c. 5.

When Ireland is particularly named or included under general words, ſhe is bound by Engliſh Acts of Parliament. Black. com. p. 103.

This

This language I confeſs would certainly be very proper, if the good people of Ireland could be perſuaded that *they* had *not* as juſt a claim to the rights derived from God and Nature as their *neighbours*. If they could be brought to think that we the Britiſh nation were another choſen people, ſo highly favoured by Providence, that we alone poſſeſſed a title to thoſe rights. But if on the other hand, they conceive that aſſerting a claim of this nature would be a very unfair monopoly in us; if they think that *their* liberties, are the *birth rights* of *Iriſhmen*, juſt as much as our's are the birth rights of *Engliſhmen*, I imagine it would be difficult to perſuade them this language is founded either in reaſon or juſtice.

Whoever has paid any attention to what has been ſaid in the preceding ſheets; will I truſt ſcarcely talk of a title by Conqueſt. But ſhould the inſolence of pride, or the prejudice of ignorance and folly, ſuggeſt this Idea; ſhould it be admitted that conqueſt gives a title (and what is equally falſe) that Ireland is a conquered country; what follows? are the preſent inhabitants of Ireland a conquered *people?* Are not nine tenths of that country in the poſſeſſion of the deſcendents of thoſe very perſons by whom the conqueſt is preſumed to have been made

made? And if conqueſt can give a title, ſurely it muſt be rather to the deſcendents of the conquerors, than to the deſcendents of thoſe who had no ſhare in making the conqueſt. By what ſtrange juggle in politics are the conquerors, of a ſudden to be metamorphoſed into the conquered? By what extraordinary mode of reaſoning, can the deſcendents of thoſe who ſtaid at home; who neither ſhared the fatigue or danger of the expedition undertaken by their brethren, who could not have ſtruck a blow; or ſpilt one drop of their blood on the occaſion; by what extraordinary mode of reaſoning I ſay, can theſe perſons conſider the deſendents of thoſe, who *did* ſhare the fatigue, who *were* expoſed to the danger, attending that undertaking, and who *did* ſpill their blood in the accompliſhment of it — in the individually ſame light, as the people whom theſe adventurers had conquered?

But to return from this digreſſion.

I have now ſtated, as briefly as poſſible, what are the natural rights of mankind. — In ſtating theſe I have ſhewn that liberty conſiſts in the complete enjoyment of the three firſt, and that the

power

power of government conſiſts in the exerciſe of a part of the fourth; the whole of this laſt is never ſurrendered by the people. The enjoyment of the three firſt, conſtitutes the *civil liberty* of a ſociety; the ſhare they retain in their own hands of the fourth, forms the foundation of what is called their *political liberty*.

The immediate conſequence of their retaining this ſhare is the preſervation of an identity of intereſt between them, and the perſons to whom they delegate the remainder of their power; for it is by retaining this ſhare that they are enabled to limit the time during which thoſe perſons are to act for them; and it is by that limitation alone, which bring the delegates back into the ſituation of thoſe who had choſen them, that this identity of intereſt can poſſibly be maintained. In arbitrary governments, where there is no *political liberty*, the whole of this right is ſurrendered into the hands of the ſovereign; conſequently tho' under a good Prince the people may be ſuffered to enjoy without moleſtation the other three, it is at the option of the ſovereign to deprive them of theſe rights when, and in what degree he thinks proper. The only permanent ſecurity then a nation

nation can have for the certain enjoyment of their *civil liberty*, is their *political liberty*. They forfeit *that*, the moment they ſurrender the *whole* of what I have defined to be the fourth natural right. The part they retain in their hands, they muſt ever watch with the moſt jealous vigilance, and defend with the moſt active ſpirit. In our conſtitution this part chiefly conſiſts in the rights of *Freeholders* conſidered as ſuch.—But there is this difference between civil and political liberty. In a free ſtate, every individual member of the community ought to have the full and complete enjoyment of the firſt; it is by no means neceſſary that every individual member ſhould actually exerciſe the ſecond. If a part, not indeed an inconſiderable part of the Community, but ſo numerous a one, as will place it beyond the reach of the reſources of government, to purchaſe of them the right itſelf, poſſeſs the actual exerciſe of it, it will be ſufficient to procure to the whole community the complete enjoyment of civil liberty.* I do not, for inſtance, imagine that the Freeholders of England could eaſily be brought to part with the *right* of voting, however they may be induced to diſpoſe of their

* In England this part of the community is certainly not ſo conſiderable as it ought to be.

votes to the beſt bidder. And as the part of the community poſſeſſed of the exerciſe of this right have *one common* intereſt with the reſt of the community, that *general* intereſt will, by ſo conſiderable a part of the people as that I have deſcribed, be as effectually defended, as if the whole community had the actual exerciſe of political liberty. Hence we may ſee how miſtaken that Idea is, that *civil liberty*, in its moſt perfect degree, can be enjoyed only in ſmall ſtates, where every member is capable of giving his ſuffrage in perſon.

The giving of a vote forms no part of *liberty*; it is an *act* of *power*, as has been very juſtly obſerved by an ingenious foreigner:[a] it is only the exerciſe of that part of the fourth natural right which the people have retained in their own hands; conſequently the moſt complete degree of *civil liberty* may be enjoyed by a ſociety, altho' every individual member of it may *not* have the actual exerciſe of this *act of power*. And in this country however political liberty may have been undermined by corruption, yet as it ſtill exiſts, ſo the inhabitants of it poſſeſs civil liberty at this preſent day as completely as in the nature

[a] Mr. Delolme.

of

of things is poſſible, altho' every individual in it does not poſſeſs the actual exerciſe of the right of giving his ſuffrage in perſon. But I will go farther. The right of the people to vote at the election of thoſe who are to be the truſtees of their power, is of conſequence only becauſe this is propably the beſt method of limiting the time for which their truſtees are to act: were there any other mode of limiting that time, or by which the people could reſume the power they had delegated, than that of poſſeſſing a right after a certain period is elapſed, to appoint new truſtees, civil liberty would in that caſe be equally ſafe. For inſtance, ſuppoſing at certain intervals the Freeholders had a right to aſſemble on the expiration of the term for which their truſtees were to act; and then inſtead of proceeding to *chuſe* the perſons who were to ſucceed the laſt truſtees, by voting for the candidates moſt agreeable to them, they were only to preſide at the ceremony of the candidate's drawing lots for a ſeat in the Houſe of Commons, and that their power conſiſted in this right of aſſembling, in ſeeing that the candidates were properly qualified, and that the ceremony was fairly performed—tho' here would be no election, civil liberty would be perfectly ſafe without one, as long as the people retained entire this right of aſſembling at ſtated periods, of preſiding at the ce-

remony of drawing lots, of ſeeing that the candidates were properly qualified, and that the ceremony was fairly performed. In this caſe it is obvious that it would not be neceſſary that every individual member of the community ſhould preſide on theſe occaſions, in order to enjoy a perfect degree of civil freedom. The whole object of a regulation of this nature being, that the time ſhould not be ſuffered to elapſe at which the power of the truſtees ought to expire, without the people's aſſerting their right of having new truſtees; this can be done juſt as well by a part of the community as by the whole; provided that part be ſufficiently numerous, to render it impracticable, to purchaſe the right itſelf of them, and difficult for any colluſion to take place between them and the candidates.

The whole ſyſtem then of *repreſentation* in this country, which has of late afforded ſuch an ample field for controverſy, is of itſelf of no farther uſe than as it ſerves to limit the duration of Parliaments; and that limitation itſelf, is of no conſequence any farther than as it ſerves to produce an indentity of intereſt between the repreſentative, and the remaining part of the community. Thoſe powers ſtill continuing in the people, which enable them to eſtabliſh ſuch identity of intereſt, do not conſtitute their liberties, but are the means of preſerving them—and if from any circumſtance whatever,

that

that *identity* of intereſt were to be deſtroyed, or *could not exiſt*, the whole buſineſs of repreſentation would be an idle form; the people would be deprived of the object for which they had retained their ſhare of what I have defined to be their fourth natural right; conſequently the power it gave them becoming ineffectual, would be in fact annihilated, and they could only hold their remaining rights by the ſufferance of the repreſentative part of the community. Now can this *identity* of intereſt ſubſiſt between the legiſlature of one community, and the people of another? If it cannot, every act of power exerciſed by that Legiſlature over the people of another Community, is a *uſurpation of the fourth natural right of mankind*; of that right which can alone ſecure to the ſociety the permanent poſſeſſion of the remaining three; of that right which ranks among the number of ſuch as "God and Nature have eſtabliſhed, and which "no human legiſlature has power to deſtroy."

I muſt here beg leave to remind the reader, that what I have hitherto advanced, relates only to the *natural* rights of mankind; which, from being ſuch, muſt neceſſarily have exiſted antecedently to the eſtabliſhment of any government. And I have endeavoured to ſhew, in the firſt place, how far the Legiſlature of a free Community muſt neceſſarily, with reſpect to that community, be circumſcribed

in

in its powers, by the exiſtence of thoſe rights. And ſecondly, how far the repreſentative part of one community, can of right exerciſe any authority over the people of another.

What I have to ſay concerning the *incidental* rights of individuals, or thoſe which they derive from, and could not poſſeſs without the eſtabliſhment of governments, I ſhall comprize in as few words as poſſible.

The firſt object of a free government is, to protect the *natural rights* of the community at large. The ſecond is, to promote the proſperity and procure every poſſible advantage to the ſociety, of which the ſituation, ſoil, and extent of the country they inhabit is capable. But, in the ſame manner, as the right of private property extends no farther, than to entitle an individual to the ſecure poſſeſſion of what he has acquired, *without infringing* any of the natural rights of another individual of the ſame ſociety; ſo the Legiſlature of one community, in their endeavours to promote the partial proſperity of that particular community, muſt not for that purpoſe encroach upon the natural rights of any other community connected with themſelves, and only forming a *different* ſtate in the *ſame* empire. For in a *free* empire, compoſed of different ſtates, one *community* is to another, exactly what in the ſame community,

munity, one *individual member* is to another. If any perſons ſhould think proper to deny this poſition, I muſt deſire they would recollect that I am ſpeaking of a *free Empire*, and not of one in which the largeſt ſtate is to be in itſelf free, but at the ſame time the ſovereign of the inferior ſtates. If it can be proved to me that *every* ſubject of the imperial crown of Great-Britain has *not* an equal title to thoſe rights which are *derived from God and Nature*; if it can be proved to me, that we, the inhabitants of this kingdom, ought to monopolize thoſe rights; and that tho' this country, ſeparately conſidered, is itſelf free, yet the empire at large is *not* ſo; I ſay, if theſe points can be proved, I ſhall readily admit that the poſition I have laid down is falſe; till then I ſhall continue to hold it to be perfectly true.

I ſhall now make a few obſervations with regard to the ſecond object of the legiſlature of a free community, that of promoting the proſperity and advantage, as well as protecting the natural rights of the ſociety. I ſhall readily admit that for this purpoſe, a ſtrong, preſiding, I might ſay, irreſiſtible power, muſt be lodged in the hands of Government. To ſuperintend and regulate all the complicated circumſtances of trade, commerce, finances, fleets, and armies, which appertain to a great and flouriſhing ſociety, is the province of the Legiſlature. In ſhort,

ſhort, over thoſe rights of individuals, which in contradiſtinction to ſuch as are founded in nature, I have called *incidental* rights, as being the reſult of, and owing their exiſtence to the eſtabliſhment of government;* and over thoſe benefits to the community which are immediately derived from government, I ſhall allow the the legiſlature, with reſpect to that community over which it immediately preſides, to have deciſive, uncontrolled authority. But this diſtinction between natural and incidental rights muſt never be out of view; and the power of regulating or creating the latter, can never be extended to encroachments upon, or ſubverſion of the former. For, if under the pretence of promoting the general advantage of the community, it were held to be juſtifiable to encroach upon the liberty of individuals;† it would be as difficult to ſet any limits to thoſe encroachments, as to have any ſecurity that the power of making them for the oſtenſible purpoſe of procuring a general benefit to the community, would never be employed for that of ſubverting the natural rights of mankind.

* Such as rank, titles, dignities, offices, privileges, &c. &c. &c.

† Therefore the exciſe laws, the game laws, and the practice of impreſſing ſeamen, as far as they go, are repugnant to the fundamental principles of a free conſtitution.

Allowing, as I do, that the powers of the legiſlature of a free country can go thus far, I truſt, tho' I maintain it cannot go farther, the poſitions I have laid down will not be conſidered as ſpeculations deſtructive to that ſuperintending authority, which muſt reſide in every government; and without the exiſtence of which it would be impoſſible to preſerve a due ſubordination among the people, or enforce a due obedience even to thoſe laws which are calculated to preſerve the general liberty of the community. Whilſt I have endeavoured to draw the boundaries of this authority, I have, at the ſame time, allowed it a ſcope ſufficiently ample to ſatisfy any ambition, which has not the deſtruction of liberty for its object. I have only aſſerted, that the power of a free government muſt neceſſarily be limited by the exiſtence of thoſe natural rights which it is admitted no human le-legiſlature *has* power to deſtroy. In conſequence of its being thus limited, it is the higheſt of abſurdities to ſay, that in this country the power of Parliament is deſpotic, that it can do any thing not naturally impoſſible,

The fact is, that in order to preſerve the freedom of a people, ſuch is the neceſſity of controlling the power of government, no matter in what hands ſuch power may be placed, that the great object of a free conſtitution is, that by its own particular con-

ſhort, over thoſe rights of individuals, which in contradiſtinction to ſuch as are founded in nature, I have called *incidental* rights, as being the reſult of, and owing their exiſtence to the eſtabliſhment of government;* and over thoſe benefits to the community which are immediately derived from government, I ſhall allow the the legiſlature, with reſpect to that community over which it immediately preſides, to have deciſive, uncontrolled authority. But this diſtinction between natural and incidental rights muſt never be out of view; and the power of regulating or creating the latter, can never be extended to encroachments upon, or ſubverſion of the former. For, if under the pretence of promoting the general advantage of the community, it were held to be juſtifiable to encroach upon the liberty of individuals;† it would be as difficult to ſet any limits to thoſe encroachments, as to have any ſecurity that the power of making them for the oſtenſible purpoſe of procuring a general benefit to the community, would never be employed for that of ſubverting the natural rights of mankind.

* Such as rank, titles, dignities, offices, privileges, &. &c. &c.

† Therefore the exciſe laws, the game laws, and the practice of impreſſing ſeamen, as far as they go, are repugnant to the fundamental principles of a free conſtitution:

Allowing, as I do, that the powers of the legiſlature of a free country can go thus far, I truſt, tho' I maintain it cannot go farther, the poſitions I have laid down will not be conſidered as ſpeculations deſtructive to that ſuperintending authority, which muſt reſide in every government; and without the exiſtence of which it would be impoſſible to preſerve a due ſubordination among the people, or enforce a due obedience even to thoſe laws which are calculated to preſerve the general liberty of the community. Whilſt I have endeavoured to draw the boundaries of this authority, I have, at the ſame time, allowed it a ſcope ſufficiently ample to ſatisfy any ambition, which has not the deſtruction of liberty for its object. I have only aſſerted, that the power of a free government muſt neceſſarily be limited by the exiſtence of thoſe natural rights which it is admitted no human legiſlature *has* power to deſtroy. In conſequence of its being thus limited, it is the higheſt of abſurdities to ſay, that in this country the power of Parliament is deſpotic, that it can do any thing not naturally impoſſible,

The fact is, that in order to preſerve the freedom of a people, ſuch is the neceſſity of controlling the power of government, no matter in what hands ſuch power may be placed, that the great object of a free conſtitution is, that by its own particular con-

ſtruction, by the oppoſition of intereſts between the conſtituent parts of it, the legiſlature ſhall be made to controul itſelf, and by that means render the exerciſe of a defenſive power on the part of the people unneceſſary. But tho' they may have endeavoured to prevent the neceſſity of taking upon themſelves the defence of their liberties, by the manner in which they ſhall have arranged the powers of the legiſlature they have ſet up, yet the people have never diveſted themſelves of the right of doing ſo. Should all their precautions prove ineffectual, (and the depravity of mankind may render them ſo, the infection of power too which tends as much to corrupt thoſe who are poſſeſſed of it, as the contagion of example does thoſe who are expoſed to it) Should therefore, I ſay, all their precautions prove ineffectual, it were ſurely a ſoleciſm in politics, to aſſert that a people had a right to model their legiſlature in what manner they thought proper, yet, after it was ſo modelled, they had no right to prevent thoſe whoſe duty it was to preſerve, from ſubverting it. Why then may we not conclude with Mr. Locke, "That there ever remains inherent in the people "a ſupreme power to remove or alter the legiſla-"tive, when they find the legiſlative act contrary "to the truſt repoſed in them; for when ſuch "truſt is abuſed, it is thereby forfeited and de-"volves to thoſe who gave it."

If then the legiſlature of a free community muſt be thus limited with reſpect to that community over which it immediately preſides, and from which it derives all its powers; ſurely that legiſlature cannot be leſs limited with regard to other communities, over which it does *not* immediately preſide, and from which it does *not* derive its powers.

On the contrary its juſt power over ſuch communities muſt be infinitely more confined. In either caſe the natural rights of mankind muſt ſet limits to the power of that legiſlature. But in the firſt, the people of the community *have* in part delegated the exerciſe of one of their natural rights to the members of their legiſlature. In the ſecond, the people of the other communities have *not* delegated to *that* legiſlature any powers whatſoever. Hence I have maintained that the parliament of Great Britain, not only cannot infringe any of the natural rights of the people of *this* country, who *have* entruſted them with power——But that the Parliament of Great Britain cannot of right exerciſe any act of authority over the people of other communities, who have *not* entruſted *them* with any power, but have on the contrary delegated their power to truſtees of their *own chuſing*.

But

But it will be ſaid, for I know it has been ſaid, where then is that ſtrong preſiding power to reſide, which is ſo neceſſary for the conſervation of an unconnected and diverſified Empire, like that of Great Britain?—If the inferior ſtates are not to be dependent upon the ſuperior ſtate, how is the unity of that Empire to be preſerved?

In anſwer to this, I would aſk, what is the *unity* of a free Empire, in what does it conſiſt?—For my part I can annex no other idea to the term, or can conceive it to bear any other meaning, than that all the conſtituent ſtates of which ſuch an Empire is compoſed, tho' diſtinct from each other, ſhould notwithſtanding with reſpect to *foreign powers* act as *one* ſtate. That the enemy of *one* ſhall be the enemy of *all*, that the war commenced by *one* ſhall be the war of *all*; in ſhort that with regard to foroign powers, they all ſhould have but *one* intereſt. If it be ſaid that the unity of the Empire means more than this, it muſt be that it alſo implies identity of internal government, identity of laws; but to imagine that ſuch an identity can exiſt in a free Empire, compoſed of parts widely diſtant from each other, of nations differing in character, differing in circumſtances, yet all attached to liberty, all conceiving that

that each had a right to appoint the legiſlature which was to enact the laws they were to obey, and which alone could adapt thoſe laws to the particular circumſtances of each, would certainly be the height of political abſurdity. It is an idea impracticable in a free Empire, and which only the iron hand of deſpotiſm could carry into execution. I ſhall therefore conclude that the unity of the Britiſh Empire, can poſſibly mean, nothing more, "than that all its conſtituent parts ſhould with re-"ſpect to foreign powers act as *one* ſtate."

I confeſs I have never heard any one hold this language reſpecting the unity of the empire, without ſome degree of aſtoniſhment. I was amazed to find it poſſible that any inhabitant of this country ſhould be ſo totally ignorant of one of the moſt ſtriking advantages of the Britiſh conſtitution. An advantage which gives it ſo deciſive a ſuperiority over a Republican form of government, as well as every other. Whether this latter form, may with reſpect to a ſingle ſtate, anſwer the purpoſe of eſtabliſhing civil liberty, as ſecurely as can be done by the conſtitution of Great Britain, I ſhall not take upon me to determine. But I am convinced that this conſtitution is the only one ever deviſed by the wit of man,

under

under which, " ſeparate and diſtant ſtates, form-
" ing one Empire, may each of them enjoy the
" *ſame* degree of liberty, yet the unity of the
" Empire be preſerved." Under every other form of government, in order to preſerve ſuch a unity as I have deſcribed, it is neceſſary that the inferior, when ſeparate and diſtant ſtates, ſhould be abſolutely *dependent* upon the ſuperior ſtate. By the ſuperior ſtate, I only mean that, which from being better inhabited and more wealthy than the others, happens to be the ſeat of government. Under ours it is only neceſſary that they ſhould be intimately *connected with*, not *dependent upon* the ſuperior ſtate.

Linked together by one common relation to the ſupreme executive power; a power which can contract alliances in which the whole Empire is included; which can declare war, in the name of the whole Empire; and can make peace, which the whole Empire is bound to obſerve. — A power which can ſuperintend and protect the ſeparate intereſts of each community in the Empire; which can put a negative on every act of the legiſlature of any one ſtate, calculated only

only to procure a partial advantage to that ſtate, at the expence of the general good of the whole.

Linked together, I ſay, by a power like this, it is impoſſible for the unity of that empire to be more completely ſecured[a]—Whilſt at the ſame time, this executive power, common to every ſtate, and forming a part of the legiſlature of each, is by the other parts of the different legiſlatures of each ſeparate ſtate, ſo limited in its exerciſe, that every diſtinct community can enjoy alike the ſame degree of civil freedom.

On the other hand where a Republic is compoſed of ſeperate and diſtant ſtates, I hardly think it would be poſſible to allow to each of theſe an equal degree of freedom, and at the ſame time preſerve the unity of the Republic. For here that

Note.

[a] Monteſquieu obſerves that the people of England are rather confederates than fellow ſubjects.—The different ſtates which compoſe the Britiſh Empire, are in the ſame manner rather confederated communities, than ſubject to any one of the number; and as in the firſt caſe, the *unity* of the *ſociety* is preſerved by their common relation to *one legiſlature*; ſo in the other, the *unity* of the *Empire* is maintained by the common relation of theſe ſtates to *one executive power*.

connecting

connecting link would be wanting which the executive power furniſhes in our form of Goverment. In order that each conſtituent ſtate of ſuch a republic ſhould be equally free, it would be eſſentially requiſite that each ſhould have a legiſlature of its own, for the regulation of its internal government. The moment we admit that the legiſlature of one community ought to make laws to bind the people of the remaining communities, tho' the unity of the republic would indeed by this means be preſerved, there would be an end of the liberty of thoſe ſtates which ſhould be compelled to obey Laws enacted by perſons to whom they had delegated no powers. If each ſtate then had a complete legiſlatur of its own, and otherwiſe they could not all be free, a Republic ſo compoſed would be a confederacy of ſeveral Soyereign ſtates, to be united only by a common intereſt. They could not properly ſpeaking form *one entire ſtate*, in the ſame manner that a variety of nations might form *one entire empire* under the Britiſh conſtitution, whilſt each remained perfectly free. Conſequently the unity of ſuch a Rupublic, if its conſtituent ſtates were diſtant from each other, would be altogether precarious and dependent upon the will of each confederate power.

In

In Holland for inſtance each province has ſovereign power with in itſelf, or in other words, a legiſlature of it's own, for could the legiſlature of any one of the provinces make laws binding to the other provinces, thoſe provinces ſo bound would be no longer free. Hence the Provincial ſtates of Holland have no manner of authority over the people who inhabit the provinces of Zealand, Utrecht, or any of the remaining ſix. It is true the unity of the republic of Holland is preſerved by means of the States General, which ſerves as the link that ties them together. But it is becauſe Holland is a compact ſtate of ſmall extent, all the provinces of which are contiguous to each other; and I have been ſpeaking only of republics compoſed of ſeparate and diſtinct ſtates. There, I ſay, ſuch an inſtitution as that of the *States General*, could not be found equal to the purpoſe of eſtabliſhing the unity of all the provinces of the republic, and at the ſame time leaving to each an equal degree of liberty. Suppoſe for inſtance, there were an American province which had acceded to the confederacy of the ſeven provinces of the Netherlands, and formed an eighth ſtate in the Republic. That province would in the firſt place, have a legiſlature of its own, and in the ſecond, it would ſend deputies to the States General. But

the States General can neither make war or peace, form new alliances, nor impoſe taxes without the conſent of every province. Conſequently tho' the adopting of ſome one of theſe meaſures might be eſſentially neceſſary to the ſeven Enropean provinces, yet this could not be done by the States General till the conſent of the American province was previouſly obtained; independent of the delay, which ſuch a proceeding muſt neceſſarily occaſion, a delay which probably the ſituation of the Republic could not admit of, as it is impoſſible that the American deputies could have identically the ſame intereſt with the deputies of the other provinces, they might refuſe their concurrence, to what might be highly advantageous to thoſe provinces, but perhaps in ſome degree detrimental to their own: the conſequence of which would be, that the States General muſt either proceed to bind the American province without the conſent of the American deputies, or they muſt ſeparate themſelves from that province, and make war, peace, and levy taxes, without including it in any of the meaſures, which the occaſion might render neceſſary. In the firſt caſe, the liberty of the American province would be at an end; in the ſecond, the unity of the Republic would be deſtroyed.

But let us fuppoſe the affairs of the republic, were to be decided upon in the States General by the majority of voices, and that conſequently the conſent of each province was not neceſſary to the meaſures the ſtates might think proper to adopt; what would follow? I have already ſhewn that in repreſentative aſſemblies, there ſhould ſubſiſt an *identity* of intereſt between the body repreſenting, and the people repreſented. What would be the caſe then with reſpect to that aſſembly, in which a great majority of the members, from being deputed from provinces ſituated in the ſame country, and lying contiguous to each other, would have one intereſt, whilſt a ſmall number, from being deputed by a diſtant province ſituated in a different quarter of the globe, would have another ?—It is evident that here, there could *not* be an *identity* of intereſt between the whole of the repreſentative body, and the whole of the people repreſented. And when in ſuch an aſſembly, meaſures were decided upon by a majority of votes, the unity of the republic would indeed be preſerved, but the independence of the diſtant province, would neceſſarily be ſacrificed to the intereſt of the other ſeven. Conſequently the inhabitants of that province, would not poſſeſs the ſame

degree of freedom, that thoſe of the other provinces would enjoy. I repeat then my poſition, that the Britiſh form of government, is perhaps the only one, under which ſeparate and diſtant ſtates forming one empire, may each of them enjoy the ſame degree of liberty, yet the unity of that empire be preſerved.

In our conſtitution the advantages which reſult from that power's being placed in the hands of one, *viz.* the Sovereign, which in republics compoſed of diſtinct and diſtant ſtates, muſt be lodged in the States General, as in Holland, or in congreſs, are infinite.—The members of a congreſs, being deputed by different communities, muſt have *local* intereſts and ſtrong *prejudices*; the Sovereign can have but *one* intereſt and even *partialities* would be unpardonable in him. In a congreſs therefore, identity of intereſt cannot in all points exiſt. With the Sovereign, the proſperity of the whole empire, and his own particular advantage, are one and the ſame.--Placed at the head of a greatly diverſified and widely extended empire, as was once the caſe, his power was univerſal in its uſe and extent, accomodated to each individual community, yet comprehending them all. He was to all, the bond of union; to all, the diſpencer of juſtice; and

enabled

enabled to become the protector of the rights of all, by giving a negative to every act of one community, which tended to encroach upon the liberties of another. This was the ſituation, the glorious ſituation, in which the ſupreme executive power of the Britiſh empire placed him, in whoſe hands it was lodged.—To what has it been ſacrificed? To return once more to you Sir William Blackſtone, it has been ſacrificed to the doctrine of the, *ſupremacy and omnipotence of the Britiſh Parliament.*

As I have already had occaſion to ſpeak of the united provinces, I ſhall conclude with making one obſervation more upon their Government. It has been remarked by their hiſtorians, that in the *inſolence* of that *pride* which *ſuperior* ſtrength and riches are wont to create, and in that *ſpirit* of *injuſtice* which *power* too *frequently inſpires*: the province of Holland, becauſe it was the *richeſt* and *the largeſt*, affected when there was *no Stadtholder*, to dictate to, and act the part of a *Sovereign* with reſpect to the other provinces. Holland therefore always oppoſed the creating of a Stadtholder; but the other provinces, conſidering a Stadtholder in the light of a *common protector* to them all, againſt the *encroaching ſpirit* of Holland, were as ſtrenuous for having one. Unfortunate indeed would the

ſituation

ſituation of thoſe provinces be, ſhould ever the Stadtholder *league* with the province of Holland, to diſpoſſeſs *them* of their rights. They would be enſlaved. And I do not ſee what pretence the Hollanders would have to complain, ſhould the *Stadtholder* afterwards purſue with reſpect to themſelves, the ſame conduct they had obſerved with regard to others.

I am, Sir, &c.

The Author.

POST-

POSTCRIPT

TO

Lord NORTH.

My Lord,

Whoever conſiders how much the people of this country in their wiſhes reſpecting your Lordſhip, conſult you diſpoſition, would be tempted to conclude you were one of the moſt popular men in the kingdom.

Your Lordſhip from a certain liberality of mind, which I apprehend you poſſeſs, can not with any ſort of ſatisfaction ſubmit to the drudgery of buſineſs. The nation perceives, and your Lordſhip does not affect to deny, your averſion to the dull toil of office; and it is ſurpriſing, how happy it would make all ranks of people, to ſee your Lordſhip relieved from the burden of conducting the affairs of this country.

For

For my part, my Lord, tho' I would yield to no one, in the ſincerity of my deſire to ſee your Lordſhip placed in that ſituation, which is held to be the moſt conſonant to your habits and inclination, yet I confeſs this is a point concerning which I have my doubts. It is true you have acknowledged in the Houſe of Commons, you were indolent; and this aſſertion of yours was ſo ſingular in its fate, as to be generally believed. It is true alſo you have declared in the ſame place, that you were forced into your preſent ſituation—that it was by no means an object of your ambition—and that you would be happy to reſign it, the moment any man, in whom the nation placed as great a degree of confidence as you gave us to underſtand, they did in your Lordſhip, would venture to ſtep into it.

Now, my Lord, were indolence and a love of eaſe, the moſt ſtriking features in your Lordſhip's character, I ſhould have placed ſome faith in theſe profeſſions of yours. And indeed your conduct ever ſince I had the honour of hearing your Lordſhip make them, had almoſt led me to imagine you were in earneſt. From your own account your Lordſhip's ſcruples, with regard to reſigning your office, aroſe, from your poſſeſſing, as you inſinuated, the confidence of the Nation—You thought yourſelf bound

bound, therefore, to maintain your poſt in the hour of danger, till another man ſhould ariſe, in whom the nation could equally confide. I ſay then, from the time your Lordſhip held this language, I could not help ſuſpecting, you were reſolved to remove this bar to the enjoyment of the eaſe your Lordſhip is ſo fond of. Deſpairing, from the dearth of public virtue, to meet with a ſucceſſor who ſhould merit the confidence of the people in an equal degree with yourſelf, you determined at any rate to bring matters to a par. You rightly judged that it would be eaſier for *you* to loſe that confidence, than for *others* to acquire it. And having by this means ſatisfied your ſcruples, you might afterwards have reſigned with a good conſcience.

It is ſome time ſince I could have heartily congratulated your Lordſhip on the ſucceſs which has attended your endeavours in this reſpect. What you ſeemed to think the great objection to your quitting the helm of the ſtate, you have moſt effectually removed. And I could long ago have had the pleaſure of aſſuring your Lordſhip, that if the being poſſeſſed of the confidence of the People, was the chief obſtacle that prevented your Lordſhip's indulging your love of eaſe and wiſhes to retire, it would have been hardly poſſible for you to lay your finger on a ſucceſſor in whom the public would not place juſt as much confidence, as they do in your Lordſhip.

What has given riſe to my doubts upon the occaſion, was to find, that though the obſtacle to your retiring was removed, your Lordſhip ſtill continued in office. I concluded, therefore, that indolence, and the love of eaſe, were *not* the moſt ſtriking features of your character; that there was *another*, which was a ſtill more marked one; and that, however fond your Lordſhip might be of retirement, yet as you had ſmall pretenſions to the *otium cum dignitate*, you wiſely reſolved to wait a little longer, till you could ſecure at leaſt the *otium cum divitiis*.

Thus much, my Lord, by way of introduction; as I conceive there would have been great indecorum in my proceeding immediately to buſineſs, the firſt time I addreſſed myſelf to one who diſlikes it ſo much: but I can aſſure your Lordſhip, you need not be alarmed at the preſent addreſs. I am not going to requeſt you to *do* any thing; I only deſign to comment a little upon ſome things your Lordſhip has left undone: of theſe, the reading of any of the preceding ſheets, will moſt aſſuredly be of the number. However, ſhould your Lordſhip be diſpoſed to run your eye over theſe pages immediately addreſſed to yourſelf, I ſhall beg leave to inform you, that the preceding ſheets treat of the natural rights of mankind; an attempt is made in them to draw the boundaries of the power of the Britiſh Parliament, and to ſhew what hardſhips and injuries a people connected with Great Britain may

ſuffer,

ſuffer, either from the abuſe of that power, or from its limits not being properly aſcertained.

When, my Lord, I ſpeak of the hardſhips, a people connected with this country, may ſuffer, the caſe of Ireland will naturally ſuggeſt itſelf to any one at all acquainted with her preſent ſituation. That ſituation is, indeed, as deplorable, as it has been undeſerved. If the people of Ireland can accuſe themſelves of any thing, it is their having confided in thoſe profeſſions reſpecting them, of which your Lordſhip was ſo liberal in the courſe of the laſt ſeſſions of Parliament. It is their folly in being duped into *hope*, by what ſhould have created their *diſtruſt*.

The ſyſtem, my Lord, you then ſeemed to adopt with regard to Ireland was a right one. For my part, I know too well the force of habit, ever to imagine you will perſevere in ſuch a one. But if your Lordſhip has the good fortune not to be ſo well known in that country, as you are in this; if the people of Ireland were ſo weak, or ſo ignorant, as to ſuffer their expectations to be raiſed by the language you then held, they deſerved, perhaps, to be puniſhed for that weakneſs, but ſurely not by *you*, my Lord. Certainly *you* ought not to have withdrawn from them your protection this ſeſſions, becauſe you

gave them reaſon to imagine you were their friend in the laſt.

People here, my Lord, would have underſtood you. Here miniſterial profeſſions can occaſion no diſappointment, for they create no expectation. But it was cruel in you, my Lord, to aggravate the calamities of a people, who, from living at a diſtance, are not equally converſant with the language of miniſters, by adding to the other cauſes of their diſcontent, the diſappointment of thoſe hopes, yourſelf had raiſed.

Your friends ſay, my Lord, that it is your *fear* of the Scotch, which prevents your taking the part you ought, for the relief of our ſiſter kingdom. If this be meant as a hint to the Iriſh, that when they appealed to your *juſtice*, they appealed to the wrong quarter; that there was *another* much more eaſy to be wrought upon, which the ſagacity of the Scotch had diſcovered. I doubt not, they will very readily underſtand it. There have, it is true, been lately ſome dangerous riots in Edinburgh, by means of which the people of Scotland have carried their point.

I moſt ſincerely wiſh, the people of Ireland may not follow their example; nay, hardly, as they have been treated by us, their national loyalty has ever

been ſuch, as almoſt to convince me that they will not. But Edinburgh has no excluſive right to formidable mobs; and, I think, I have heard, that there has been occaſionally ſomething very like one in Dublin.

If your Lordſhip wiſhes to be farther informed on this ſubject, I would refer you to a certain right honourable member of Houſe of Commons,* well known for maintaining the doctrine of the right of that Houſe to tax our ſiſter country.

It is true likewiſe, that a large body of Highlanders, encamped ſome time ſince upon Arthur's ſeat, near Edinburgh, and refuſed to obey their officers; but it is alſo whiſpered, that in Ireland there are near 20,000 men trained and diſciplined, who are not bound to obey any order your Lordſhip, or the ſecretary at war ſhould ſend them.†

* Mr. R——y, when in Dublin, and another right honourable gentleman, very narrowly eſcaped being hanged by one of of theſe mobs.

† When, during the courſe of laſt year, great apprehenſions were entertained in the North of Ireland, (where the linen manufactory is eſtabliſhed, upon which the very exiſtence of Ireland depends) either of an invaſion from the French, or deſcents from the crews of privateers, who might, in the ſpace of a night, do almoſt irreparable damage to that manufactory; ſtrong repreſentations

Your Lordſhip may perceive then, that it is, without doubt, in the power of the Iriſh, though I am convinced, it is not in their inclination, to appeal to the ſame *quarter* to which the Scotch have already appealed, with ſo much ſucceſs. And indeed, the different treatment of the two kingdoms of Ireland and Scotland, will furniſh a ſtriking inſtance, that a loyalty, which is proof to all oppreſſion, may be as great a misfortune to a people, as a proper ſpirit of reſiſtance, may, at times be advantageous to them.

Far be it from me to draw any invidious compariſons between the Scotch and the Iriſh. Let Scotland enjoy the benefits ſhe reaps, from the conduct ſhe has held—But certainly Ireland cannot be culpable, at leaſt, in the opinion of Great-Britain, in not copying that conduct. And it is ſurely hard, that her attachment to this country, and her loyalty to her ſovereigns, inſtead of being rewarded, ſhould ſerve only to make the narrow-minded, and illiberal in this kingdom, imagine, they may venture, with *impunity*, to treat the Iriſh nation in what manner they think proper.

tations of the ſituation of that part of Ireland, were made to government on this ſide of the water. The anſwer received was, you have *a troop of horſe, a company* of *invalids*, if they are not ſufficient, *defend yourſelves.*

But

But would your Lordſhip know, what are at this day the ſentiments of the people of Ireland, I believe you will find, that the ſheets, preceding this addreſs to your Lordſhip, contain, for the moſt part, their *political creed*; and with reſpect to the conduct of England towards them, they would ſay to the people of England, and to your Lordſhip,

" We, your *fellow* ſubjects, *not* your *ſubjects*, " have been long united to you, by the ties of " friendſhip and conſanguinity. Deſcended from " the ſame anceſtors with yourſelves, we conſider " you as our brethren, but not as our maſters. " Having one king in common with you, it has " been our peculiar misfortune, ſeldom, if ever, " to enjoy the preſence of our ſovereign, ſince that " period, at which *our* king* happened to ſucceed " *your* throne. As if the conſtant reſidence of " our ſovereign in another kingdom, is not of

* John, A. D. 1199.

John had been twenty-two years king of Ireland, when, upon the death of his brother, Richard the Firſt, he, unluckily for Ireland, ſucceeded to the Britiſh throne. And during the courſe of thoſe twenty-two years, neither Henry the Second, the father of John, nor Richard the Firſt, his brother, ever ſtiled themſelves kings or lords of Ireland. Mollyneux's Caſe of Ireland, page 31.

" iitſelf

" itſelf a ſufficient misfortune, we apprehend that
" reſidence may formerly have given to the royal
" mind a bias in favour of that kingdom, which
" at the beſt amounted to an unjuſt partiality; a
" partiality, which has proved fatal to the proſpe-
" rity of Ireland. Certain it is, that the caſual
" circumſtance of our king's reſiding among *you*,
" our fellow ſubjects of England, gives to you,
" groundleſs, and ſtrange ideas of a ſuperiority over
" us, to which you have no pretenſions—ideas,
" which we conceive owe their exiſtence only to
" the inſolence of pride, and which you can never
" carry into practice, but in the ſpirit of injuſtice.
" If we are poorer than you, to *what*, to *whom*,
" is our poverty owing? If we are fewer in num-
" ber—who deprives us of that trade, the want of
" which, thins our country of its inhabitants?
" A country formed by nature, from its ſituation,
" its ſoil, its climate, to be the ſeat of plenty,
" wealth, and commerce—You, our fellow-ſub-
" jects of England, have deprived us of the uſe
" of theſe, by a conduct as impolitic, as it is un-
" juſt; a conduct as prejudicial to *your* intereſts,
" as it is fatal to *ours*. In lieu of plenty, wealth,
" and commerce, our ill fated country exhibits
" ſcenes of poverty, diſtreſs, and want. We have
" the fineſt harbours, without commerce; a fer-
" tile ſoil, without agriculture; manufactures
" without a market; and ſtaple commodities,

" doom-

" doomed, by your laws, to rot upon the ground,
" which has produced them."

" We conceive this conduct of your's, to be
" no leſs fooliſh than cruel; for we conſider the
" trade of Ireland as a plant, the faireſt bloſſoms
" of which would ever be thrown into the lap of
" the ſiſter country. Not content with checking
" its growth, you almoſt ſeem diſpoſed to tear it
" up by the roots. We have but two articles of
" commerce. Our very exiſtence depends upon
" them—No conſideration can prevail upon you
" to lay an additional duty upon foreign linens,
" imported into England, in order to encourage
" the one; and for the ſole purpoſe of gratifying
" the avarice of contractors, you have lately ſuf-
" fered an embargo to continue three years upon
" the other, by which you ran the riſk of its being
" annihilated. Not content with cutting us off
" from the means of enriching ourſelves, you
" plunder us of the produce of the little com-
" merce, you cannot well deprive us of; the
" wretched gleanings of your traders—A band of
" hungry penſioners, and placemen without em-
" ployment, annually conſume in England, the
" beſt part of that produce. Men, the major
" part of whom are ſo far from having any claim
" upon us, that their perſons are as unknown to
" us, as their merits; and even their names we

" ſhould never have heard of, but from reading
" them in the liſt of our plunderers. We can-
" not but think the great ſums expended among
" you by our abſentees, and the monopoly of our
" trade, ought to ſatisfy you: we think it hard you
" ſhould *rob* a people, who have ever been ſo wil-
" ling to *give*; we think it hard, that the expences
" of an exhauſted and almoſt bankrupt country,
" ſhould be encreaſed in proportion as her means
" begin to fail; that ſhe ſhould be yearly plunged
" into new debts, the more it becomes evident,
" that the old ones are too heavy a burden for
" her; we think it hard you ſhould take from po-
" verty, to give to affluence; and to pamper the
" luxury of ſome, devote others to indigence and
" want.

" What compenſation do you make us,
" what do your afford us in return for all you de-
" prive us of? Is it protection?—No—*We* have
" afforded protection to *you*—With more friend-
" ſhip perhaps than wiſdom, we lent you troops,
" which we continued to pay till the exhauſted ſtate
" of our finances rendered it impracticable, for the
" purpoſe of carrying on a war, in which we had no
" concern; in order to ſubdue a country, with
" which, if ſubdued, you would not have allow-
" ed us to trade. We follow your fortunes, with-
" out partaking of your councils; we fight your
" battles, without ſharing the honour of your

" victo-

" victories; and we contribute to your conqueſts,
" from which you will not ſuffer us to reap the
" ſmalleſt advantage.

" If we are allowed to have any thing in com-
" mon with you, it is your diſtreſſes, your mis-
" fortunes; we are involved in your calamities,
" but ſeldom taſte of your proſperity. If, notwith-
" ſtanding this, we have ſtill coutinued attached to
" you; if our loyalty to our ſovereign has ever
" been unſhaken, it has been owing to a certain
" concurrence of circumſtances, which had no re-
" lation to your conduct towards us, and which
" helped to counteract its effects. We are per-
" ſuaded at this day, there are none among us,
" who do not ardently deſire, that the moſt inti-
" mate friendſhip, the cloſeſt connection, and the
" moſt *perfect community of intereſt*, may ſubſiſt
" between the ſiſter kingdoms. We have lived
" in hopes, that the narrow, illiberal, and ſelfiſh
" views of ſome among you, would have yielded
" to the common advantage of both countries.
" We have lately been ſeverely diſappointed—
" yet we have ſhewn no reſentment—We have
" ſubmitted in ſilence. But if you have denied
" us the advantages we ſought, and perhaps had a
" right to expect, we cannot ſuffer our manufac-
" turers to ſtarve. In our preſent circumſtances
" we cannot furniſh a market both for our own,

" and

" and yours: for ſome time paſt, they muſt have " periſhed for want, had not charity ſtepped in " between them and famine. And we truſt, you " can have no reaſon to complain, ſhould we " think it neceſſary to feed our hungry, and " cloath our naked manufacturers, before we " contribute to the luxury of yours.

" We ſhall ſtill continue to flatter ourſelves, we " ſhall meet at a future period with ſome relief: " but ſhall not expect it, till we behold in Great- " Britain a miniſter more ſteady than your Lord- " ſhip, and a ſpirit more liberal than that which " ſeems to prevail there at preſent."

This, my Lord, is the language, which, I believe, every Iriſhman would hold at this day. They now feel no reſentment againſt your Lordſhip, for having diſappointed their fondeſt expectations, as they have ſince become acquainted with your Lordſhip's character. They look down with pity upon the ſituation of thoſe members in your houſe, who, from their connections with certain towns and boroughs, are compelled to be the tools of ignorance, prejudice, and illiberality. They do not conceive it poſſible, that any of thoſe who oppoſed the Iriſh bills, could ſeriouſly think it right to ſacrifice the intereſt of the whole people of Ireland, to that of every ſelfiſh, contemptible,

petty manufacturing borough in England. But they look up with admiration and reſpect, to one or two characters in that Houſe, but more particularly to one, whoſe merit, both for integrity and abilities, is above all praiſe; and who, moſt probably, has forfeited his future claim to the ſeat he now fills, by diſdaining to become the inſtrument of the ſelfiſhneſs, or the advocate for the illiberality, of his conſtituents.

I know not, my Lord, whether theſe pages may contain any hints, that can be of uſe to your Lordſhip; if they ſhould, ſuch hints are perfectly at your ſervice.

I have the honour to be, my Lord, with all the reſpect a friend to his country can have for your Lordſhip,

Your Lordſhip's

moſt humble, &c.

THE AUTHOR.

FINIS.